

Message Text

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SUBJECT: GOP MODIFIES INDUSTRIAL COMMUNITY LAW; WORKER
PARTICIPATION IN MANAGEMENT FURTHER REDUCED

REF: (A) 77 LIMA 1038, (B) 77 LIMA A-050

BEGIN UNCLASSIFIED

1. SUMMARY: ON JULY 11 THE GOP APPROVED DECREE LAW (D.L.)
22229 WHICH MODIFIED THE INDUSTRIAL COMMUNITY LAW, D.L. 21789
OF FEB 1, 1977, BY, INTER ALIA, PERMITTING WORKERS TO SELL THEIR
"LABOR SHARES" (ACCIONES LABORALES, A FORM OF PREFERRED STOCK)
AS SOON AS RECEIVED RATHER THAN AFTER A 6-YEAR WAITING PERIOD
AS STIPULATED IN THE 1977 LAW. THE RESULT OF THIS CHANGE WILL
MOST LIKELY BE A DIMUNITION OF THE WORKERS' PARTICIPATION IN
THE MANAGEMENT OF PRIVATE SECTOR INDUSTRIAL ENTERPRISES AS
WORKERS OPT TO SELL THEIR "LABOR SHARES" TO OBTAIN CASH IN HAND.
THE CHANGE IN THE INDUSTRIAL COMMUNITY IS YET ANOTHER IN A
SERIES OF STEPS TAKEN BY THE GOP IN AN EFFORT TO INCREASE
INCENTIVES FOR INVESTMENT IN THE INDUSTRIAL SECTOR. END SUMMARY.

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2. BACKGROUND: AS ORIGINALLY ESTABLISHED BY DECREE LAW 18350 OF
JULY, 1970, THE INDUSTRIAL COMMUNITY CONCEPT PROVIDED FOR
WORKER PARTICIPATION IN OWNERSHIP AND MANAGEMENT OF INDUS-
TRIAL SECTOR ENTERPRISES. 15 PCT OF PRE-TAX PROFITS OF AN
ENTERPRISE WAS TO BE TURNED OVER ANNUALLY TO THE WORKERS
ON A COMMUNAL BASIS THROUGH THE ENTERPRISE'S INDUSTRIAL
COMMUNITY UNTIL THE COMMUNITY CONTROLLED 50 PCT OF THE CAPITAL

OF THE ENTERPRISE. THE WORKERS, THROUGH THE INDUSTRIAL COMMUNITY (IC), OBTAINED REPRESENTATION ON THE COMPANY'S BOARD OF DIRECTORS AND AT STOCKHOLDERS' MEETINGS IN DIRECT PROPORTION TO THE COMMUNITY'S SHARE OF CAPITAL OF THE COMPANY. WHILE ONLY ONE OR TWO COMPANIES HAD IC'S WHICH HAD OBTAINED 50 PCT OF THE CAPITAL OF THE COMPANY, THE PROSPECT THAT THE WORKERS COULD EVENTUALLY REACH 50 PCT CONTROL OF A COMPANY PROVED TO BE A DISINCENTIVE TO MANY POTENTIAL ENTREPRENEURS AND CAUSED SKEWED INVESTMENT IN EXISTING ENTERPRISES. THE IC WAS VIEWED AS ONE OF THE REASONS THAT INVESTMENT IN PERU'S PRIVATE SECTOR DECLINED DURING THE PERUVIAN REVOLUTION'S FIRST PHASE.

3. ON FEB 1, 1977 THE GOP ISSUED D.L. 21789, WHICH MODIFIED THE INDUSTRIAL COMMUNITY BY PROVIDING INTER ALIA, (A) THAT WORKERS WOULD RECEIVE EITHER A FORM OF PREFERRED STOCK (CALLED "LABOR SHARES") OR BONDS, RATHER THAN COMMON STOCK AS PART OF THEIR PROFIT SHARING; (B) THE IC COULD EVENTUALLY HOLD SHARES EQUIVALENT TO A MAXIMUM OF 33-1/3 PERCENT OF TOTAL ASSETS IN A COMPANY, RATHER THAN THE ORIGINAL 50 PERCENT; (C) WORKER PARTICIPATION WAS LIMITED TO THE BOARD OF DIRECTORS MEETINGS BUT NOT THE STOCKHOLDERS MEETINGS OF A COMPANY; (D) THE SHARES WERE MADE ON AN INDIVIDUAL BASIS, NOT TO THE IC; AND (E) THE SHARES WERE TRANSFERABLE AND COULD BE SOLD 6 YEARS AFTER THEIR ISSUANCE. DETAILS ON D.L. 21789 WERE REPORTED IN REFS A AND B.
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4. NEW LAW. ON JULY 11, 1978 THE GOP PROMULGATED D.L. 22229 WHICH FURTHER MODIFIES THE INDUSTRIAL COMMUNITY BY, INTER ALIA, PERMITTING THE IMMEDIATE SALE OF THE "WORKERS SHARES." IN ADDITION, WORKERS NOW HAVE THE OPTION TO RECEIVE "LABOR SHARES" AND/OR COMMON STOCK IN COMPANIES OTHER THAN THE ONE IN WHICH THEY ARE EMPLOYED. THE NEW DECREE LAW ALSO PROVIDES THAT EACH INDIVIDUAL WORKER WILL DECIDE THE MIX OF HIS SHARE OF HIS COMPANY'S PROFITS AMONG "LABOR SHARES", VARIOUS FORMS OF BONDS (SEE REFERENCED MESSAGES), AND STOCK IN OTHER COMPANIES. IN THE 1977 MODIFICATIONS, THIS MIX WAS DETERMINED BY THE COMMUNITY. LABOR REINVESTMENT BONDS, ONE FORM OF BOND AVAILABLE UNDER D.L. 21789, HAS BEEN ELIMINATED BY D.L. 22229. FINALLY, OWNERS OF COMMON STOCK IN AN ENTERPRISE WHO ARE NOT WORKERS IN THE ENTERPRISE ARE PROHIBITED FROM OWNING "LABOR SHARES" TOTALING MORE THAN .5 PCT OF THE TOTAL VALUE OF THE COMMON STOCK OF THE COMPANY.
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5. COMMENT: A. THE NEW CHANGES INCORPORATED INTO THE OPERATION OF THE INDUSTRIAL COMMUNITY REPRESENTS A PROBABLE

FURTHER DIMUNITION OF WORKER PARTICIPATION IN THE CONTROL OF INDUSTRIAL ENTERPRISES BEYOND THOSE INTRODUCED IN 1977. SINCE, UNDER THE 1977 MODIFICATIONS, THE WORKERS COULD NOT SELL THEIR "LABOR SHARES" FOR 6 YEARS AND THE "INVESTMENT MIX" OF THE WORKERS WAS DETERMINED BY THE COMMUNITY AS A WHOLE, THE IC THAT COULD EFFECTIVELY ORGANIZE THE ENTERPRISE'S WORKERS COULD THEORETICALLY MAINTAIN A SOLID VOTING BLOCK OF UP TO 33-1/3 PERCENT OF THE ENTERPRISE'S BOARD OF DIRECTORS. NOW, HOWEVER, UNDER THE NEW REGIMEN, IT IS ASSUMED THE AVERAGE INDIVIDUAL WORKER, HARD-PRESSED TO MAKE ENDS MEET IN THE CURRENT ECONOMIC SITUATION, WILL EXERCISE HIS RIGHT TO SELL HIS "LABOR SHARES" AND RECEIVE HARD CASH. THE LIKELIHOOD OF AN INDUSTRIAL COMMUNITY ORGANIZING ITS MEMBERS TO RETAIN THEIR "LABOR SHARES" TO FORM AN IMPORTANT LIMITED OFFICIAL USE

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VOTING BLOCK IN THE COMPANY'S BOARD OF DIRECTORS IS THOUGHT TO BE VERY SMALL.

B. THE LIMIT ON THE TOTAL VALUE OF "LABOR SHARES" WHICH CAN BE HELD BY OWNERS OF COMMON STOCK WHO ARE NOT WORKERS IN THE ENTERPRISE IS VIEWED BY KNOWLEDGEABLE OBSERVERS AS NO IMPEDIMENT TO THE ACCUMULATION OF CONTROL OF A COMPANY BY THE ORIGINAL INVESTORS. MOST OWNERS ARE ALSO INCLUDED IN THE ROSTER OF THEIR COMPANIES' WORKERS, SO IT IS BELIEVED THEY WILL BE ABLE TO PURCHASE AVAILABLE "LABOR SHARES" IN AMOUNTS BEYOND THE .5 PERCENT LIMIT.

C. THE NEW LAW, WHICH WE UNDERSTAND WAS CHAMPIONED STRONGLY IN THE GOVERNMENT BY INDUSTRY AND COMMERCE MINISTER LANATA, HAS ALREADY RECEIVED FAVORABLE COMMENTS FROM THE BUSINESS SECTOR. PUBLIC SUPPORT FOR THE MEASURE ALSO CAME FROM ALVA ORLANDINI, SECRETARY GENERAL OF EX-PRESIDENT BELAUNDE'S ACCION POPULAR PARTY. THE COMMUNIST PARTY, ON THE OTHER HAND, CRITICIZED THE NEW LAW AS BEING ANTI-WORKER. APRA SPOKESMAN, PEDRO MAYTA ZAPATA, VOICED CONCERN ABOUT THE CONSEQUENCES OF THE MEASURE, BUT DIDN'T COME DOWN CLEARLY EITHER FOR OR AGAINST IT.

D. THE NEW DECREE LAW WAS CLEARLY DESIGNED TO ENCOURAGE THE PRIVATE INVESTOR AND IS YET ANOTHER GOP ACTION IN THIS DIRECTION. OVER THE LAST TWO YEARS THE GOP HAS GRADUALLY DISMANTLED A LARGE NUMBER OF THE REVOLUTIONARY LEGISLATION INTRODUCED DURING THE FIRST PHASE OF THE REVOLUTION. SOME FEEL THAT THE DISMANTLING HAS BEEN TOO GRADUAL. BUT EVEN IF EACH NEW MEASURE IN ITSELF HAS NOT HAD GREAT IMPACT, THE TREND HAS BEEN TOWARD FAVORABLE TREATMENT FOR THE PRIVATE INVESTOR.

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6. COPY OF DECREE LAW POUCHED ARAAND - KEMP.

DECON 7/19/79.

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